AMENDMENTS TO THE CLAIMS:

Claims 1-6 (Canceled)

7. (Currently amended) A positive active material comprising:

a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:

$Li_aMn_bNi_cCo_dO_e$ (Chemical composition formula 1)

wherein $0<a\leq 1.3$

$|b-c|\leq 0.05$

$0.6\leq d<1$

$1.7\leq e\leq 2.3$

$b+c+d=1$, and

wherein said composite oxide comprises a single-phase structure belonging to space group R3-m ~~an oxide which is other than $LiMn_{0.05}Ni_{0.05}Co_{0.9}O_2$, and $b\neq 0.1$~~.

8. (Currently amended) A positive active material comprising:

a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:

$Li_aMn_bNi_cCo_dO_e$ (Chemical composition formula 1)

wherein $0<a\leq 1.3$

$|b-c|<0.03$

$0.8\leq d<1$

$1.7\leq e\leq 2.3$

$b+c+d=1$, and

wherein said composite oxide comprises a single-phase structure belonging to space group R3-m ~~an oxide which is other than $LiMn_{0.05}Ni_{0.05}Co_{0.9}O_2$, and $b\neq 0.1$~~.

9. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode including the positive active material of claim 7;

a negative electrode; and

a non-aqueous electrolyte.

10. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode including the positive active material of claim 8;

a negative electrode; and

a non-aqueous electrolyte.

11. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode, a negative electrode, and a non-aqueous electrolyte,

wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel structure and represented by the general formula $LiMn_2O_4$ and a lithium-nickel-manganese-cobalt composite oxide (B) having an α-$NaFeO_2$ layer structure and represented by the general formula $Li_aMn_bNi_cCo_dO_e$,

wherein a weight ratio of (A) to (B) is in a range from 5:95 to 10:90, and

wherein

$0<a\leq 1.3$

$|b-c|\leq 0.05$

$0.6\leq d<1$

$1.7\leq e\leq 2.3$

$b+c+d=1$.

12. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode, a negative electrode, and a non-aqueous electrolyte,

wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel structure and represented by the general formula $LiMn_2O_4$ and a lithium-nickel-manganese-

cobalt composite oxide (B) having an α-$NaFeO_2$ layer structure and represented by the general formula $Li_aMn_bNi_cCo_dO_e$,

wherein a weight ratio of (A) to (B) is in a range from 5:95 to 10:90, and

wherein

$0<a\leq 1.3$

$|b-c|<0.03$

$0.8\leq d<1$

$1.7\leq e\leq 2.3$

$b+c+d=1$.

13. (Previously presented) The non-aqueous electrolyte battery of claim 19, wherein the positive electrode includes (A) and the (B) in a proportion (weight ratio) of from 5:95 to 90:10.

14. (Previously presented) The non-aqueous electrolyte battery of claim 20, wherein the positive electrode includes (A) and the (B) in a proportion (weight ratio) of from 5:95 to 90:10.

15. (Currently amended) A positive active material comprising:

a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:

$Li_aMn_bNi_cCo_dO_e$ (Chemical composition formula 1)

wherein $0<a\leq 1.3$

$|b-c|\leq 0.05$

$0.6\leq d\leq 0.833$

$1.7\leq e\leq 2.3$

$b+c+d=1$, and

wherein said composite oxide comprises a single-phase structure belonging to space group R3-m ~~$b\neq 0.1$~~.

16. (Currently amended) A positive active material comprising:

a composite oxide which comprises lithium (Li), manganese (Mn), nickel (Ni), cobalt (Co), and oxygen (O) and is represented by the following chemical composition formula:

$Li_aMn_bNi_cCo_dO_e$ (Chemical composition formula 1)

wherein $0<a\leq 1.3$

$|b-c|<0.03$

$0.8\leq d\leq 0.833$

$1.7\leq e\leq 2.3$

$b+c+d=1$, and

wherein said composite oxide comprises a single-phase structure belonging to space group R3-m ~~$b\neq 0.1$~~.

17. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode including the positive active material of claim 15;

a negative electrode; and

a non-aqueous electrolyte.

18. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode including the positive active material of claim 16;

a negative electrode; and

a non-aqueous electrolyte.

19. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode, a negative electrode, and a non-aqueous electrolyte,

wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel structure and represented by the general formula $LiMn_2O_4$ and a lithium-nickel-manganese-cobalt composite oxide (B) having an α-$NaFeO_2$ layer structure and represented by the general formula $Li_aMn_bNi_cCo_dO_e$,

wherein

$0<a\leq 1.3$

$|b-c|\leq 0.05$

$0.9\leq d<1$

$1.7\leq e\leq 2.3$

$b+c+d=1$

$b<0.05$.

20. (Previously presented) A non-aqueous electrolyte battery, comprising:

a positive electrode, a negative electrode, and a non-aqueous electrolyte,

wherein the positive electrode comprises a lithium-manganese oxide (A) having a spinel structure and represented by the general formula $LiMn_2O_4$ and a lithium-nickel-manganese-cobalt composite oxide (B) having an α-$NaFeO_2$ layer structure and represented by the general formula $Li_aMn_bNi_cCo_dO_e$,

wherein

$0<a\leq 1.3$

$|b-c|<0.03$

$0.9\leq d<1$

$1.7\leq e\leq 2.3$

$b+c+d=1$

$b<0.05$.

21. (New) The non-aqueous electrolyte battery of claim 11, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.

22. (New) The non-aqueous electrolyte battery of claim 12, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.

23. (New) The non-aqueous electrolyte battery of claim 19, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.

24. (New) The non-aqueous electrolyte battery of claim 20, wherein said composite oxide comprises a single-phase structure belonging to space group R3-m.